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Joint Statement by energy intensive sectors on CBAM

CEMBUREAU, EUROFER, EUROMETAUX, EUROPEAN ALUMINIUM and FERTILIZERS EUROPE represent the four industrial sectors proposed by the Commission to be included in the scope of the EU Carbon Border Adjustment Mechanism (CBAM)– cement, steel, aluminium and fertilisers.

Properly addressing the issue of carbon leakage is critical to avoid a situation where the EU’s climate ambitions lead to an overall increase in global emissions. Such an outcome would undermine the entire “Fit for 55 Package”, a package intended to deliver EU’s climate targets and promote green industrial growth. While the European products are already cleaner than our major global competitors, we still face unilateral carbon costs. As long as competitors in third countries are not subject to equivalent carbon costs and constraints, carbon leakage remains a major threat for the EU Green Deal, even more with the very high carbon price expected by 2030.

Having thoroughly analysed the measure, we focus on 4 key issues without which CBAM will not be effective in preventing carbon-intensive imports nor promote comparable carbon pricing in third countries.

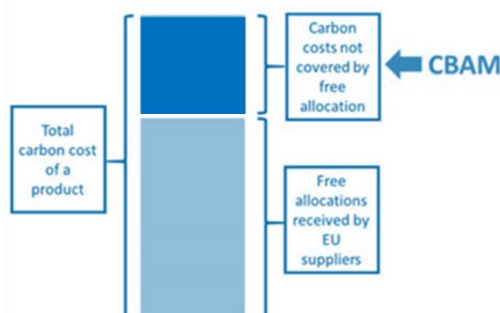
Our key recommendations

- Maintain the current carbon leakage framework until 2030 to test the CBAM, smoothen the impact on value chains and trade flows and ensure EU industry focuses resource on investment
- Include a solution for European exports
- Strengthen and extend anti-circumvention provisions
- Improve design parameters (e.g., default values) and governance for a water-tight CBAM

1. The current carbon leakage framework must be ensured for CBAM sectors until 2030

Free allocation and, where granted, indirect costs compensation have proven effective measures to a large extent, although in the context of much lower carbon prices. With the increased EU 2030 climate ambition, carbon prices have already reached high levels (currently 80-90 EUR/t) and will continue to rise in the coming years. Since our main competitors do not face comparable costs, Europe’s carbon leakage framework must be strengthened rather than weakened and CBAM should not be a replacement but a complementary tool.

Maintaining the current carbon leakage framework with a complementary CBAM during a testing period indeed is WTO compliant since the two would address different carbon costs, **hence not granting double protection for the same emissions**. This would also reduce the initial level of the CBAM levy, which mitigates the impact on trade flows and facilitates international trade relations. Furthermore, such approach will considerably smoothen the impact of CBAM on European value chains.



Given the unknown and entangled nature of CBAM, a complementary approach until 2030 would allow for a diligent testing of the tool while ensuring carbon leakage protection in a key decade where our sectors will be investing in low-carbon breakthrough technologies. This will also result in protecting CBAM sectors value chains. On the contrary, a fast free allocation phase out will expose EU industry to significantly higher carbon costs, reducing its financial ability to invest.

2. Include a solution for European exports

It is critical that CBAM features a solution to prevent carbon leakage of export products. Already today, European industries are faced with a competitive disadvantage in relation to producers in third countries, when these do not have a similar carbon trading scheme in place. This trend will only be exacerbated by the increased pressure of the EU ETS review and if the implementation of CBAM is accompanied by a phase-out of free allocation. This will inevitably result in lower access to export markets for the European industry, with a negative impact on global CO₂ performance. Losing access to third countries' markets would jeopardise not only these volumes but the entire competitiveness of companies since they would strive to achieve sufficient capacity utilisation to secure their sustainable viability. It is therefore essential to find a solution for European exports as part of CBAM. This would act as a further incentive to ensure third countries set up carbon pricing schemes.

3. Anti-circumvention measures, design parameters and governance- CBAM needs to be water-tight and ensure a full level playing field between European and imported products

For CBAM to be effective in securing carbon costs equalisation between European and third country industries, it should *inter alia*:

- i. Avoid any circumvention by importers. Article 27 of the Commission proposal shall be significantly strengthened and improved as it opens the door to easily bypassing the CBAM fee via: a) resource shuffling; b) product manipulation; c) emissions data manipulation; d) cost absorption; e) transshipment; and f) not actually paying the declared CO₂ price in home country. All these risks shall be duly addressed with proposed definitions and deterrent remedies in the Regulation.
- ii. Exemptions and fee reductions to importers on the basis of *actual* carbon costs faced in third countries: Ensure that any exemption or reduction of the number of CBAM certificates is granted on fully comparable to the carbon pricing costs European industry faces. We see no valid justification in exemption countries on the basis of mere 'climate change commitments or level of economic development'. It is essential that firstly, the third party comes from a country/region with carbon pricing; secondly, that the reciprocal industry in that country is subject to carbon price; and thirdly, that the third country producers' costs are not offset either partially or fully by any kind of redistribution mechanism.
- iii. A legitimate system for disclosing the carbon content of each product: European producers are subject to very strict monitoring, verification, and reporting ETS protocols. CBAM requirements for imported emissions shall be consistent with those set in the EU ETS. If real data provided by importers are used, such data shall be properly verified by independent experts or specialised Commission teams, including on-the-spot verification to ensure their robustness. Verification should take place yearly and EU industry should be consulted and have the possibility to comment on findings, while preserving business confidentiality. Actively withholding data or non-cooperation should lead to adverse adjustments of individual company data to encourage full cooperation.
- iv. Creation of an EU wide centralised CBAM authority: A centralised EU CBAM authority in charge of implementing and monitoring CBAM shall be created. A centralised EU authority approach is needed to make CBAM more effective and enforceable.
- v. Default values: Default values are essential for ensuring the robustness of the CBAM. They should be applied homogeneously to all operators that do not declare their real emissions and reflect the highest known carbon intensity for producing relevant goods, so that importers are incentivised to provide real

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emissions data. Potential adjustments of default values to particular areas, regions or countries create legal uncertainty and increase circumvention risks.

4. Timeline for the introduction of a complex, untested mechanism

Before replacing the already proven carbon leakage protection framework by a new, untested CBAM, the European Union shall properly assess its efficiency in addressing carbon leakage. This should be done via a 1) a data collection period, 2) a testing period and 3) full implementation if certain conditions in the testing period are met.

In the first reporting years [2023-2025], the CBAM will not imply any financial consequence for the importers, hence it is not possible to test its efficiency. Thus, it is of utmost importance to have some testing years where the CBAM fee applies, and the Commission thoroughly evaluates it attains a level playing. After this, a testing period should begin. In this period, the Commission should test a CBAM to see if it is effective in preventing carbon leakage, incentivising third countries to adapt more climate ambition and is not easily circumvented. If all three criteria are fulfilled, and a suitable solution for exports are found, full implementation of the CBAM and a phase out of free allowances can begin.

